

**DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
MEMORANDUM OF UNDERSTANDING
BETWEEN**

(School District Name)	AND	(Department of Education)
()		(Office of Finance & Management)
()		(700 Governors Drive)
(Address)		(Pierre, SD 57501-2291)
		Attn: Bonnie Olson

WHEREAS, the Department of Education, hereinafter referred to as “The State”, has contracted with Apex Learning, which is a provider of online Advanced Placement courses, to offer such courses to South Dakota Students;

WHEREAS, the School District, hereinafter referred to as “The District”, desires to participate in a license agreement and enroll students in online Advanced Placement courses with Apex Learning,

Now, therefore, both parties mutually agree to the following terms and conditions:

I. Terms and Conditions:

A. Term

This agreement shall commence _____ and shall end June 30, 2007.

B. End User Sub license Agreement

Through a license agreement between the State and Apex Learning, the District is granted the right to access all Apex Advanced Placement Educational Products courseware and the online exam review located on Apex’s Web site, Apex’s Interface, and the schedule for access that Apex makes available generally to Apex Educational Product Users.

C. Responsibilities of the State

1. The State will contract with Apex Learning, for a license agreement for access rights by the District to all Apex Advanced Placement Educational Products courseware and the online exam review.
2. The State will pay for each successfully completed semester course that a student completes and does not withdraw from a course for any reason. Successfully completing a course is achieved when a student receives a “C” grade or above from the Advanced Placement teacher. Withdrawing and/or incompleting of a course means that a student does not complete the course with a “C” grade or above. If a student does not successfully complete a course or withdraws from a course, the District will be responsible for the cost of the course. The cost, therefore, will be billed to the District directly from Apex Learning.
3. The South Dakota Department of Education will not refund any portion of an AP course that a student withdraws from. However, Apex will credit 100% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the Friday before the course start date. After that period has passed, Apex will credit 80% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the 14th day of the course. After that period has passed, Apex will credit 20% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the 28th day of the course. No credits or refunds are available after the 28th day of a course.
4. The State will determine in all instances if a course requirement has not been fulfilled and if the District will be considered responsible for the cost of the course.

D. Responsibilities of the School District

1. The School District will pay for all textbook(s) costs incurred by the student while enrolled in Advanced Placement courses with Apex Learning. Textbooks are to be purchased directly from Apex Learning.
2. If a student does not successfully complete an Advanced Placement course or withdraws, the School District will be responsible for the cost of that course. Payment will be made by the District, directly to Apex Learning based on established rates.
3. Students are expected to maintain the highest standard of academic integrity while taking an AP course through Apex. Cheating and plagiarism are serious matters and will result in disciplinary action taken by the Apex online instructor. A student caught cheating may receive a failing grade and/or be denied access to Apex Online AP courses. If a student is caught the Department of Education will not fund the course fee for that student and the district will be billed.

II. Payment

This provision sets forth the terms and conditions for payment of the services provided to the District. The State, under a separate contract with Apex, will provide payment for all costs incurred for Advanced Placement course(s) with the exception as described in section I.C.2., I.D.1., and I.D.3 above. If the District is deemed obligated for any course costs under the provisions stipulated in Section I.C.2. and I.D.3. above, such costs will be the responsibility of the District and payment issued directly to Apex.

III. Termination Provision

This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

IV. Amendment Provision

This agreement contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing, signed by both parties.

V. Indemnification Clause

The District agrees to hold harmless and indemnify the State of South Dakota, it's officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the District to be responsible for or defend against claims or damages arising solely from acts or omissions of the State it's officers or employees.

VI. Americans with Disabilities Act

The District agrees to provide services in compliance with the American With Disabilities Act of 1990.

VII. Default Provision

This agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. This agreement will be terminated by the State if the Legislature fails to appropriate funds, or grant expenditure authority. Termination for this reason is not a default by the State nor does it give rise to a claim against the State.

In witness hereto the parties signify their agreement by signature affixed below:

School District Authorized Signature

Date

DOE Authorized Signature

Date